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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/634,166      | 08/05/2003  | Julian Crawford      | 035470.00001        | 6335             |

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09/13/2005

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/634,166

Applicant(s)

CRAWFORD, JULIAN

Examiner

Christopher P. Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***WITHDRAWN REJECTIONS***

1. The 35 U.S.C. 112 rejections of claims 8-9 and 11-15 of record in the Office Action mailed June 29, 2005, Pages 3-4 Paragraph 3, are withdrawn due to Applicant's amendments in the Paper filed July 28, 2005.

***REPEATED REJECTIONS***

2. The 35 U.S.C. 112 rejection of claim 10 is repeated for the reasons set forth in the previous Office Action mailed June 29, 2005, Pages 3-4 Paragraph 3.

3. The 35 U.S.C. 102 rejections of claims 8 and 10-11 as anticipated by Plymale are repeated for the reasons set forth in the previous Office Action mailed June 29, 2005, Pages 5-6 Paragraph 4.

Regarding the newly added limitation that the drawn thermoplastic filaments are "longitudinally extending", Plymale teaches especially in Figure 3 that the thermoplastic filaments are longitudinally extending.

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4. The 35 U.S.C. 103 rejections of claims 9 and 12-15 over Plymale are repeated for the reasons set forth in the previous Office Action mailed June 29, 2005, Pages 7-8 Paragraph 5.

Regarding the newly added limitation that the drawn thermoplastic filaments are "longitudinally extending", Plymale teaches especially in Figure 3 that the thermoplastic filaments are longitudinally extending.

***ANSWERS TO APPLICANT'S ARGUMENTS***

5. Applicant's arguments regarding the 35 U.S.C. 112 rejections of claims 8-9 and 11-15 of record have been considered but are moot since the rejections have been withdrawn.

6. Applicant's arguments regarding the 35 U.S.C. 112 rejection of claim 10 of record have been considered but they are not persuasive.

Applicant has stated that the amendments to the claims overcome the 112 rejections. Although it is agreed that the amendments overcome the 112 rejections regarding antecedent basis it does not overcome the rejection of claim 10 regarding what is adjacent said longitudinally extending drawn thermoplastic filaments and therefore what is substantially in

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contact. Specifically, is the limitation stating that the filaments are in contact with each other or that the space adjacent to each of the filaments is in contact and therefore suggesting that the filaments are parallel to each other?

7. Applicant's arguments regarding the 35 U.S.C. 102 and 103 rejections of claims 8-15 over Plymale have been fully considered but they are not persuasive.

In response to Applicant's argument that the longitudinally extending thermoplastic yarns are not "drawn", Plymale teaches that the longitudinally extending thermoplastic yarns are extruded and pass between guide members and are pulled by take-up rolls (col.3, 1.5-45). The limitation does not require a definitive amount of drawing of the filaments merely that the filaments are drawn. Because the filaments of Plymale are extruded and pulled by take-up rolls, the filaments are drawn at least minimally. Without specifically defining the amount of drawing performed by the claimed filaments any filament that is drawn to any extent is within the scope of the claimed drawn filaments.

In response to Applicant's argument that the helically wrapped thermoplastic filaments are not "elastic", Plymale teaches that the helically wrapped thermoplastic filaments are

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formed of rubber (col.3, 1.66-72). The definition of rubber includes the limitation "an elastic substance." Therefore, by teaching that the filament is formed of rubber the filament is inherently elastic because rubber is an elastic substance.

### **Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489.

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The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes  
Examiner  
Art Unit 1772

CPB  
CPB  
September 6, 2005

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER

1772

9/7/05